

REMARKS

On January 20, 2005, Applicants filed an *Amendment and Response to Second Non-Final Office Action Dated October 20, 2004*. In response thereto, the United States Patent and Trademark Office issued a *Notice of Non-Compliant Amendment* on April 21, 2005, which stated that the Amendment and Response was non-compliant because Applicants had added new claims without specifying how the new claims read over the prior art; that a general statement that the new claims are patentable is not compliant. As the non-compliant amendment is a non-final amendment, Applicants were given one month from the mail date of the Notice to supply the corrected section of the non-compliant amendment in compliance with 37 CFR 1.121. As such, Applicants are filing this *Replacement Amendment and Response to Non-Final Office Action Dated October 20, 2004* prior to the one-month deadline of May 21, 2005.

In supplying the corrected section of the non-compliant amendment, Applicants have repeated the entirety of the non-compliant amendment (filed on January 20, 2005) herein and have further included the corrected section under the heading "Newly Added Claims" herein such that the Amendment should now be compliant.

If the Examiner is of the opinion that more information than that provided herein is necessary for the Amendment to be compliant, Applicants respectfully request that the Examiner contact one of Applicants' attorneys to discuss same.

As Applicants previously supplied a check in the amount of \$1,450.00 for the amendments made to the claims, Applicants have not again included herewith any payments for the submission of this Replacement Amendment. If the Examiner is of the opinion that further payments are due for the submission of this Replacement Amendment, the Commissioner is hereby authorized to charge payments of those fees associated with this

Replacement Amendment to Deposit Account No. 20-1495.

Applicants, by the amendments presented above and the arguments presented below, have made a concerted effort to present claims which clearly define over the prior art of record, and thus to place this case in condition for allowance. Claims 1-8, 10-20, 22-24 and 26-43 are currently pending. Claims 29-43 are newly added. Claims 9, 21 and 25 have been cancelled.

Claim Rejections - 35 U.S.C. §102

Claims 1-13, 19-22 and 25 were rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 2,303,148 to Tinnerman.

Applicant has cancelled claims 9, 21 and 25 and, therefore, considers the rejection of these claims to be moot.

Applicant has amended independent claims 1 and 10 and, in view of the amendments, respectfully traverses the rejection of independent claims 1 and 10 as being anticipated by Tinnerman. Applicant has amended independent claims 1 and 10 to require that a first portion of the nut member be configured to engage (the body of) the cage member such that a second portion of the nut member does not come into contact with either the base portion of (the body of) the cage member or the at least one wall portion of the cage member. Because of this configuration, (the body of) the cage member provides a limited range of movement of the nut member in at least one dimension and further allows access to the aperture of the nut member within the limited range of movement of the nut member.

Tinnerman does not disclose or suggest such a structure as claimed in amended independent claims 1 and 10. Conversely, the cage member (as explained by the Examiner is the item having arms 13, base 10, and aperture 11) does not provide any range of movement

of the nut member in any direction. According to Tinnerman, the nut member is held in the cage member such that the nut member cannot be turned or rotated, and further is held in a fixed or locked relation within the cage member such that even accidental displacement or unintentional removal of the nut member is not possible. Support for this statement can be found in Tinnerman at least in the following areas: page 2, col. 1, lines 24-32; page 2, col. 1, lines 59-65; page 2, col. 2, lines 34-37; page 2, col. 2, lines 48-70; page 3, col. 1, lines 13-24; and page 3, col. 1, lines 30-36. Thus, Tinnerman clearly does not disclose or suggest a cage member which is configured to provide a limited range of movement of the nut member engaged therein in at least one dimension; Tinnerman allows for absolutely no movement of the nut member engaged within the cage member.

Therefore, Applicant respectfully requests reconsideration and allowance of independent claims 1 and 10 as amended.

As Applicant states that independent claim 1 as amended is now in condition for allowance, Applicant respectfully requests reconsideration and allowance of claims 2-8 which are dependent on independent claim 1. Applicant notes that amendments have been made to claims 2, 5 and 8 in view of the amendments made to independent claim 1.

As Applicant states that independent claim 10 as amended is now in condition for allowance, Applicant respectfully requests reconsideration and allowance of claims 11-20 and 27. Applicant notes that amendments have been made to claims 11, 14, 16, 17 and 20 in view of the amendments made to independent claim 10.

Applicant has amended independent claim 22 and, in view of the amendments, respectfully traverses the rejection of independent claim 22 as being anticipated by Tinnerman. Applicant has amended independent claim 22 to require that a the cage member define a base portion and an upper portion where the upper portion of the cage member is

configured to engage the nut member and further configured to be flexed downwardly by the nut member toward the base portion in order to allow the nut member to contact the base portion.

Tinnerman does not disclose or suggest such a structure as claimed in amended independent claim 22. Conversely, Tinnerman has a base portion (identified as reference numeral #10 by the Examiner) and arms 13 which extend downwardly therefrom, as illustrated in the drawings. Thus, first of all, Tinnerman does not have a cage member having a base portion and, separately therefrom, an upper portion; in Tinnerman, the base portion would have to be the upper portion and, thus, the arms 13 of Tinnerman cannot be said to be the upper portion of the cage member. Second, the base portion of Tinnerman – in other words the upper portion of Tinnerman – does not engage any portion of the nut member as is clearly illustrated in the drawings. Even if the arms 13 of Tinnerman were argued to be the upper portion of the cage member of Tinnerman, the arms 13 of Tinnerman definitely are not flexed downwardly by the nut member toward the base portion in order to allow the nut member to contact the base portion. The nut member in Tinnerman never comes into contact with the base 10. Further, the arms 13 are only flexed outwardly by the nut member in order to hold it in tight fixed relation thereto; the arms 13 are not flexed downwardly toward the base portion. Thus, Tinnerman clearly does not disclose or suggest a combination as defined in amended independent claim 22.

Therefore, Applicant respectfully requests reconsideration and allowance of independent claim 22 as amended.

As Applicant states that independent claim 22 as amended is now in condition for allowance, Applicant respectfully requests reconsideration and allowance of claims 23, 24, 26 and 28 which are dependent on independent claim 22. Applicant notes that amendments have

been made to claim 26 in view of the amendments made to independent claim 22.

Claim Rejections – 35 U.S.C. §103

Claim 23 was rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 2,303,148 to Tinnerman.

Applicant respectfully traverses this rejection. As Applicant states that independent claim 22 as amended is now in condition for allowance, Applicant respectfully requests reconsideration and allowance of claim 23 which is dependent on independent claim 22.

Newly Added Claims

Applicant has added new claims 29-43. Claims 29, 34 and 39-43 are independent claims. Claims 30-33 are dependent on independent claim 29. Claims 35-38 are dependent on independent claim 34.

Applicant states that claims 29-43 are allowable in view of the prior art of record at the time of issuance of the second non-final Office Action, as well as in view of the prior art disclosed in the two Supplemental Information Disclosure Statements submitted today. Thus, consideration and allowance of claims 29-43 is respectfully requested.

With regard to new independent claim 29, Applicants state that independent claim 29 is allowable in view of the prior art of record because the prior art of record does not disclose or suggest a cage member engageable with a nut member having an aperture which extends at least partially therethrough to receive a fastener therein, thereby providing a cage nut assembly, the cage member comprising: a body configured to encage the nut member and having an aperture formed therein, the aperture configured to allow access to the aperture of the nut member when the nut member is generally engaged by the cage member, the body

defining a base portion, the body engaging the nut member such that the nut member is suspended off of the base portion prior to the fastener being received in the aperture of the nut member.

Applicants note that in the Notice of Non-Compliant Amendment that the Examiner stated that claim 29 appeared to be almost identical to claim 1 prior to the amendment thereto. Applicants state that new independent claim 29 is similar to independent claim 1 prior to the amendment thereto, but that new independent claim 29 includes the limitation that the body engages the nut member such that the nut member is suspended off of the base portion *prior to the fastener being received in the aperture of the nut member*. Independent claim 1 prior to the amendment thereto did not include such a limitation and, therefore, in view of this limitation, Applicants state that independent claim 29 is allowable over the prior art of record.

Applicants therefore respectfully request consideration and allowance of new independent claim 29.

With regard to new dependent claims 30-33, Applicants state that these claims are dependent on new independent claim 29, which Applicants have stated is in condition for allowance and, therefore, Applicants respectfully request consideration and allowance of new dependent claims 30-33.

With regard to new independent claim 34, Applicants state that independent claim 34 is allowable in view of the prior art of record because the prior art of record does not disclose or suggest an assembly configured to receive a fastener, the assembly comprising: a nut member having an aperture which extends at least partially therethrough to receive the fastener therein; and a cage member configured to encage the nut member and having an aperture formed therein, the aperture configured to allow access to the aperture of the nut member when the nut member is generally encaged by the cage member, the cage member

defining a base portion, the body engaging the nut member such that the nut member is suspended off of the base portion prior to the fastener being received in the aperture of the nut member.

Applicants state that new independent claim 34 is similar to independent claim 10 prior to the amendment thereto, but that new independent claim 34 includes the limitation that the body engages the nut member such that the nut member is suspended off of the base portion *prior to the fastener being received in the aperture of the nut member*. Independent claim 10 prior to the amendment thereto did not include such a limitation and, therefore, in view of this limitation, Applicants state that independent claim 34 is allowable over the prior art of record.

Applicants therefore respectfully request consideration and allowance of new independent claim 34.

With regard to new dependent claims 35-38, Applicants state that these claims are dependent on new independent claim 34, which Applicants have stated is in condition for allowance and, therefore, Applicants respectfully request consideration and allowance of new dependent claims 35-38.

With regard to new independent claim 39, Applicants state that independent claim 39 is allowable in view of the prior art of record because the prior art of record does not disclose or suggest a cage member engageable with a nut member having an aperture which extends at least partially therethrough, thereby providing a cage nut assembly, the cage member comprising: a body configured to engage the nut member and having an aperture formed therein, the aperture configured to allow access to the aperture of the nut member when the nut member is generally engaged by the cage member, the body defining a base portion, the body having an upper portion configured to engage the nut member such that the nut member

is freely suspended above the base portion when the nut member is generally engaged by the cage member. Applicants therefore respectfully request consideration and allowance of new independent claim 39.

With regard to new independent claim 40, Applicants state that independent claim 40 is allowable in view of the prior art of record because the prior art of record does not disclose or suggest a cage member engageable with a nut member having an aperture which extends at least partially therethrough, thereby providing a cage nut assembly, the cage member comprising: a body configured to engage the nut member and having an aperture formed therein, the aperture configured to allow access to the aperture of the nut member when the nut member is generally engaged by the cage member, the body defining a base portion, the body having an upper portion configured to engage the nut member such that the nut member is freely suspended from the upper portion when the nut member is generally engaged by the cage member. Applicants therefore respectfully request consideration and allowance of new independent claim 40.

With regard to new independent claim 41, Applicants state that independent claim 41 is allowable in view of the prior art of record because the prior art of record does not disclose or suggest an assembly configured to receive a fastener, the assembly comprising: a nut member having an aperture which extends at least partially therethrough; and a cage member configured to engage the nut member and having an aperture formed therein, the aperture configured to allow access to the aperture of the nut member when the nut member is generally engaged by the cage member, the cage member defining a base portion, the cage member having an upper portion configured to engage the nut member such that the nut member is freely suspended above the base portion when the nut member is generally engaged by the cage member. Applicants therefore respectfully request consideration and

allowance of new independent claim 41.

With regard to new independent claim 42, Applicants state that independent claim 42 is allowable in view of the prior art of record because the prior art of record does not disclose or suggest an assembly configured to receive a fastener, the assembly comprising: a nut member having an aperture which extends at least partially therethrough; and a cage member configured to encage the nut member and having an aperture formed therein, the aperture configured to allow access to the aperture of the nut member when the nut member is generally encaged by the cage member, the cage member defining a base portion, the cage member having an upper portion configured to engage the nut member such that the nut member is freely suspended from the upper portion when the nut member is generally encaged by the cage member. Applicants therefore respectfully request consideration and allowance of new independent claim 42.

With regard to new independent claim 43, Applicants state that independent claim 43 is allowable in view of the prior art of record because the prior art of record does not disclose or suggest a method of securing a fastener to a workpiece, the method comprising the steps of: providing the workpiece having first and second surfaces and an aperture provided therethrough; providing the fastener having an enlarged head portion and an elongated shank extending therefrom; providing a nut member having an aperture which extends at least partially therethrough to define an aperture wall; providing a cage member configured to encage the nut member and having an aperture formed therein which is generally aligned with the aperture of the workpiece and with the aperture of the nut member, the cage member defining a base portion and an upper portion; engaging the nut member with the upper portion of the cage member such that the nut member is suspended off of the base portion such that the nut member does not come into contact with the base portion; securing the cage member

to the first surface of the workpiece; and securing the fastener to the nut member by inserting the elongated shank of the fastener through the apertures of the workpiece, the cage member and the nut member such that the elongated shank of the fastener engages the aperture wall of the nut member, such that the enlarged head portion of the fastener is generally positioned against the second surface of the workpiece, and such that the upper portion of the cage member allows the nut member to come into contact with the base portion of the cage member. Applicants therefore respectfully request consideration and allowance of new independent claim 43.

Allowable Subject Matter


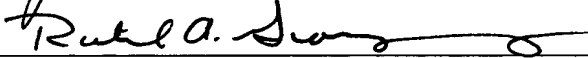
The Examiner objected to claims 14-18, 24 and 26-28 as being dependent upon a rejected base claims, but indicated that these claims would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

As Applicant states that independent claims 10 and 22 as amended are now in condition for allowance, and because claims 14-18, 24 and 26-28 are dependent on independent claims 10 and 22 and therefore also in condition for allowance, Applicant has not amended claims 14-18, 24 and 26-28 into independent form to include all of the limitations of the base claim and any intervening claims. Applicant, though, reserves the right to possibly present such claims in a future Amendment.

In view of the above Amendments and Remarks, Applicants respectfully submit that the claims of the application are allowable over the rejections of the Examiner. Should the Examiner have any questions regarding this Amendment, the Examiner is invited to contact one of the undersigned attorneys at (312) 704-1890.

Respectfully submitted,

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By: 


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